



Testimony of Janet Napolitano, Governor of Arizona

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“Ensuring Full Implementation of the 9/11 Commission’s
Recommendations”

Chairman Lieberman, Ranking Member Collins and Committee Members, thank you for the opportunity to testify on the impact that the recommendations of the 9/11 Commission have had on the ability of states to protect their citizens.

I testify before you today wearing two hats, one as the Governor of Arizona and one as the elected chair of the National Governors Association, a bi-partisan organization representing the nation's governors. My testimony today, while informed by the experiences of my fellow governors, is given not as NGA chair but as Governor of Arizona.

Nearly five and a half years have passed since the tragic events of September 11, 2001. This is an appropriate time to take a hard look at what really has been accomplished - at local, state and the federal levels - to halt terrorist attacks, and what dangerous gaps in prevention and protection remain. 9/11 was a pivotal date and we must sustain the momentum and resolve that began that day. And since the U.S. Department of Homeland Security now takes an all-hazards approach to preparedness, we must also review the current status of response and recovery capabilities, especially in the wake of the devastation that ensued from Hurricanes Katrina and Rita.

Of the 41 recommendations in the 9/11 Commission's final report, 15 focus on preventing the spread of terrorism in the world, 11 focus on intelligence, legislative and executive level reforms, and 15 focus on better preparing for the day we pray will never come - another attack on our home soil - through screening, security and national preparedness measures.

However, even the boldest proposals and strategies amount to nothing unless they include clear deadlines, detailed lines of responsibility and sufficient funding.

As a former U.S. attorney, state attorney general and now governor, I am in a unique position to focus my testimony today on those segments of the report dealing with security here at home, which can be considered to fall into categories including border security, intelligence sharing, transportation security and effective screening, national preparedness, interoperability and the role of the private sector.

Border Security

At a minimum, three specific border recommendations of the 9/11 Recommendations Implementation Act of 2004 must be fully funded. Further, the State Criminal Alien Assistance Program must be federally funded at the authorized level.

As governor of a state with a 377-mile international border, I have seen firsthand the harsh realities and dangers that emerge when an effective federal security program doesn't exist. Arizona has more undocumented immigrants entering the country across its border than any other state in the nation. In fact, more than half of our nation's illegal border crossings occur in Arizona. Every day 1,500 illegal immigrants are apprehended while crossing into my state. Last year, the illegal border crossers apprehended along the southwest border represented more than 125 distinct countries.

Is everyone who crosses the border out to do harm? No. But some may be and we cannot afford to take that risk. It's impossible to know the intent of illegal crossers unless appropriate screening and security measures are in place.

First and foremost, securing the U.S. border is a federal responsibility. I have contended for some time that the federal government has lost operational control of the U.S.-Mexico border and must redouble its efforts to return safety and security to this region. The federal government must secure the international border. Anything less is inadequate and a failure.

While I appreciate the recent attention that has been directed toward the border it has been a slow, late response. As a result, my fellow border governors and I have often stepped in to fill the security gap. Because the circumstances were dire, I declared a state of emergency in Arizona's border counties so I could use state funds to increase local law enforcement patrols along the Arizona border, to help the federal government do its job. Through my Fraudulent ID Task Force, Arizona has dismantled manufacturers and vendors of the fake IDs that are used to facilitate violent human trafficking and other crimes associated with illegal immigration.

As the first governor in the nation to call for deployment of the National Guard at the border, I commend President Bush for agreeing to fund the placement of the Guard along the southern border through Operation Jump Start, where they have supported the Border Patrol in surveillance efforts and infrastructure construction. Additionally, over the past few years, Operation Stonegarden has worked successfully along the southern border states to dissuade illegal crossers through increased local law enforcement patrols.

But to focus on these actions is to focus on temporary fixes, stopgap measures powered primarily by state and local efforts. These are not the solution to the border crisis.

The Intelligence Reform and Terrorism Prevention Act of 2004 includes a five-year border security plan based on the 9/11 Report's recommendations. Although it is encouraging to see a hard timeline and proposed legislation attached to the recommendations, a worrisome discrepancy remains between the actions called for in the recommendations and the allotted funding. The 9/11 Commission's stinging assessment of the progress made in the five years since September 2001 showed a sobering shortage of Border Patrol agents, ICE investigators and federal detention centers needed to adequately protect the border.

Protecting the border from illegal human and drug trafficking is a federal responsibility, yet border states and border communities have borne an unfair share of these costs. One direct byproduct of an unsecured federal border is the illegal immigrants imprisoned in state correctional facilities. I, along with ten other governors, have called on President Bush to include in the FY2008 budget the \$950 million that has been authorized by Congress to reimburse states for funds spent on imprisoning these federal criminals to date. Arizona's SCAAP invoices alone totals nearly \$300 million. States should be spending this money on improving the lives of their citizens, not to cover expenses that are a federal responsibility. The federal government must fully fund SCAAP.

We all share the common goal of protecting our nation but states simply cannot afford to pay the bills to police and incarcerate federal criminals.

It is important to recognize that enhanced border security cannot be divorced from the pressing need for comprehensive immigration reform. A safer, modern immigration system must combine border and workplace enforcement with mechanisms to regulate future flows of immigrants into our country and allow the 12 million undocumented already here to emerge from the shadows with appropriate sanctions. Comprehensive reform will make America safer and our borders more secure by allowing us to focus resources on the fraction of foreigners who may seek to enter the United States with evil intentions. Reform will give us an opportunity to perform terrorism and criminal background checks on the undocumented who wish to seek to earn the right to stay in the United States. It will also get the Border Patrol back to the job of focusing on threats to our security.

Intelligence Sharing

The 9/11 Commission's recommendations also include the establishment of a National Counterterrorism Center (NCTC). After establishing the Arizona Counter-Terrorism Information Center (ACTIC) in 2004, I experienced firsthand the difference that a consolidated intelligence fusion center can make in identifying, tracking and monitoring threats. When Ambassador McNamara of the Office of the Director of National Intelligence recently visited ACTIC, he commended it as both a national model in fusion centers and as an example of excellence in collaborative intelligence efforts among its 41 local, state and federal partners. Pooling intelligence and joint planning can stop threats so I was pleased to see NCTC become a reality.

A next big challenge for these fusion centers is to increase the pace and consistency of intelligence sharing among federal intelligence liaisons, state fusion center analysts and the cops on the street. Timely and actionable information allows the local law enforcement to appropriately react. As a start, the four southern border states – Arizona, California, New Mexico and Texas – have formalized an intelligence-sharing agreement to strengthen our regional homeland security efforts. It is time to broaden and extend this cooperation to the federal level.

The benefits of sharing homeland security information helped drive the formation last year of two new groups within the National Governors Association: the NGA's Homeland Security Advisors Council and the NGA's Public Safety Task Force. The Council brings together state and territory homeland security advisors to develop strategies for managing homeland security threats. I'm pleased that the Council has had meetings with Secretary Chertoff, the Office of Management and Budget and on the Hill, and I certainly hope that this group becomes an integral part of national homeland security planning efforts. The Task Force, which I formed in September 2006, will increase collaboration among states in homeland security and emergency response planning.

Governors recognize the need to coordinate programs among federal agencies, and we hope to see greater clarification of the currently fragmented structure of federal responsibilities and more cooperation among federal agencies to better enable state and territories to create and implement

their statewide homeland security strategies. Specifically, coordinating between state and federal agencies can be improved by: establishing and fully funding state fusion centers, expediting a standardized security clearance process that is reciprocal between agencies and levels of government, as well as establishing liaison officers within federal intelligence agencies to ensure that critical information is shared with states in a timely fashion.

Transportation and Screening: The Role of REAL ID

There is no doubt that we must strengthen the documents used for identification in our nation. Although the REAL ID provisions of the 9/11 Recommendations Implementation Act represent an admirable stride towards addressing the security threat posed by fraudulent identification, it is important to recognize the undue burden posed on states when such laws constitute an unfunded mandate.

Governors are dedicated to enhancing the security and integrity of identification but I am concerned that the challenges of implementing REAL ID as it currently stands are too high to overcome without the necessary funding. States have estimated that requirements of this congressional mandate will cost *more than \$11 billion* over five years – significantly higher than the Congressional Budget Office’s \$100 million estimate – and cannot realistically be met by the law’s May 2008 deadline.

Because REAL ID so significantly alters long-standing state laws, regulations and practices, its implementation poses considerable operational challenges. These might be addressed through steps such as extending the compliance deadline and granting the Secretary of Homeland Security the flexibility to consider accepting some of the innovative state practices that accomplish the goals of REAL ID.

Any and all federal action relating to homeland security must be fully funded and supported by the federal government in order to fulfill its intended impact while respecting the constitutional relationship between the states and the federal government. I encourage Congress to work with states to fix REAL ID and assist in making our citizens more secure.

Homeland Security and Emergency Preparedness Funding

The U.S. Department of Homeland Security has developed and issued federal directives aimed at ensuring that states and local jurisdictions are prepared for emergencies. It seems logical that the federal government should provide the funding necessary for these states and localities to comply with the directives.

The simple fact is that state preparedness efforts depend to a large degree on federal homeland security funding. One continuing source of frustration I have heard both within my state and in my interactions as NGA chair is the federal government’s continued lack of transparency in how allocation decisions are made with the DHS State Homeland Security Grant Program. States are greatly concerned about the process by which these funding decisions have been made and I share this concern. In fact, requests by multiple states to the DHS for details on how funding allocations were determined have been ignored or rebuffed. How are factors such as the

southern border, the presence of ports and federally-controlled national security facilities in major population centers weighted in relation to risk calculations?

Despite being the nation's fastest growing state, Arizona has experienced a fifty percent drop in federal homeland security funding in the last year, and a two-thirds drop since 2004. We've always planned for an eventual decrease in federal funding and in fact a few years ago Arizona adopted a regional approach to homeland security to encourage resource sharing and collaboration. Our success with this program has led DHS to describe regionalization a "vital step" in establishing layered prevention, protection, response and recovery capabilities. Nevertheless, these unexplained dramatic funding cuts – for Arizona and for states across the nation – were disturbing.

It is tough not to wonder whether Arizona is viewed within DHS as nothing but a small western outpost, instead of home to the nation's largest nuclear power plant, fifth largest city, sixth busiest airport, and our country's only training ground for F-16 pilots, not to mention its most porous international border. It's worth noting that Phoenix, whose population grows by one hundred thousand annually, saw a sixty percent reduction in federal homeland security funding in the last year alone.

Arizona's funding frustrations are mirrored closely in states across the nation. It is challenging and frustrating to plan a long-term state homeland security program when funding levels are so uncertain. In addition to shedding light on how these decisions are made, I recommend strongly that states be provided with funding plans for more than a one-year outlook. The NGA's Homeland Security Advisors Council has recommended to Secretary Chertoff that DHS build out a multi-year grant program similar to the multi-year funding methods employed by the Department of Defense. This is a good idea. It's impossible to plan a comprehensive and realistic state homeland security strategy without a clear understanding of funding beyond the current year.

Although I agree with need for a risk-based formula – one that includes increased transparency – I also believe that each state and territory should receive at least a minimum amount of funding to ensure they can achieve and maintain a base capacity for preparedness and response.

My comments on funding have focused on federal allocations. However, states are not sitting back and depending fully on the federal government to fund homeland security and emergency preparedness measures. In Arizona we successfully released more than \$1.5 million in state Border Emergency Declaration funds to pay for measures that included increasing local law enforcement patrols along the most highly-trafficked sections of the Arizona-Mexico border. Through Arizona anti-gang squads called Gang Intelligence and Immigration Team Enforcement Missions (GIITEMs), we have seen how cooperative efforts among law enforcement serves as a force multiplier in bringing down violent gangs and border-related crime. Just last year, I secured \$17 million in state funding for GIITEM. I'm also proud that Arizona's Department of Public Safety has pioneered the use of advanced License Plate Reader technology that vastly improves our ability to detect the stolen vehicles used by human smugglers – and arrest the criminal who are driving them, often preventing additional crimes in the process. I know other states have funded additional measures at their own expense to enhance security and preparedness.

Interoperability

Improving the nation's emergency communications capacity is an ongoing challenge raised in the recommendations of the 9/11 Commission and Hurricane Katrina after-action reports. We all remember the chaos and tragedies that ensued on 9/11 when the first responders at the scene couldn't communicate with one another. There were also challenges resulting from Katrina, including in New Orleans where Arizona sent a Mobile Communications Van to provide much needed additional communications capacity.

These events have repeatedly demonstrated the need for a national funding program to upgrade our nation's public safety systems and achieve true interoperability among all first responders. The nationwide cost to meet this need has been conservatively estimated at \$15 billion. Due to the extreme costs of true statewide interoperability, most states currently use a band-aid approach with patching technologies instead of a true, long-term solution.

First responders risk their lives for us everyday, and we owe them the tools that they need to keep us – and them – safe. I'd like to ask that Congress reevaluate the overall effectiveness of current funding mechanisms used to address interoperability. States continue to make considerable investments in communications capacity, but more needs to be done. A comprehensive, coordinated system of interoperable communications is vital to saving lives during emergency response. Dedicated funding for robust statewide and regional interoperability must remain a national priority as Congress moves into its 110th session.

The NGA's Homeland Security Advisors Council has recommended to Secretary Chertoff that an office be appointed within DHS to focus on the nationwide interoperability implementation, while taking into account individual states' unique situations and addressing the realities of the funding requirements.

National Guard

Although at the start of my testimony I said I would focus on national homeland security issues, I would be remiss if I did not also mention my concerns about the strain on the National Guard caused by deployment abroad and the resulting diminished capacity to lead response and recovery efforts here at home.

We must make sure that the National Guard is adequately equipped to serve its important mission at home. With a significant portion of the National Guard force currently deployed overseas, and the average deployment currently nearing 18 months, states have had to depend on the Emergency Management Assistance Compact (EMAC) to provide a force for responding to emergencies such as Hurricane Katrina. In fact, some 50,000 National Guardsmen and women from every state across the country responded to that hurricane, demonstrating not only the effectiveness of the Guard in domestic emergencies, but also how the governors can assist one another in times of need.

Although the National Guard can respond to major emergencies through EMAC, many states and territories are currently experiencing equipment shortages in critical mission areas such as tactical fixed wing airlift, motorized vehicles, radios and other communications equipment, and utility helicopters. Such shortages could critically affect our readiness, both for domestic and overseas missions. In addition, attention must be paid to the Army and Air National Guard units returning from active duty without equipment, as most of their equipment that could be used in domestic emergencies is left on the battlefield. It is especially critical for these units to be re-equipped to ensure that they can effectively train and prepare for their redeployment or domestic missions.

If we are going to call on the Guard to assist significantly in both long-term overseas and domestic missions, we owe it to them to ensure they are properly trained and equipped.

Private Sector

A national standard for private sector preparedness must be established. As you are aware, fully 85 percent of our nation's critical infrastructure is owned by the private sector, including utilities, financial institutions and transportation industries. In Arizona, we've found that engaging this sector in planning – through active involvement in training and exercises – and safeguarding this critical infrastructure through Threat and Vulnerability Assessments is something they welcome. In addition to states continuing as a resource and a partner in these efforts, the adoption of a national standard for private preparedness is essential.

Thank you for permitting me the opportunity to testify about this issue that is so critical to the future of our states and our nation. I also invite and urge you to work closely with the nation's governors through the National Governors Association to ensure that you have the valuable input from all of our states.

Only when the federal government works together with the states will we be able to fully integrate and coordinate our public safety programs, which will maximize both the efficient use of taxpayer dollars and the security of all Americans. Including the governors in the homeland security dialogue is important, as each of us can offer a unique perspective and expertise. As initiatives such as Operation Jump Start demonstrate, the governors have creative ideas about how to can make our communities safer without unfairly burdening our businesses and citizens.

Great strides have been made at local, state and federal levels in identifying, preventing, preparing for and recovering to terrorist attacks and natural disasters, but this is no time to slow down preparations. If we were to rank the top issues that Americans today are concerned about they likely include many of the security issues raised in the report's recommendations and discussed in hearings like this in Congress. However, this commitment to continued progress must go hand-in-hand with the necessary funding and realistic timelines.